

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

X

Deszmon Moore,

Movant,

-v-

UNITED STATES OF AMERICA,

Respondent.

NOV 12 2019

12-CR-506 (AJN)

16-CV-3612 (AJN)

ORDER

X

ALISON J. NATHAN, United States District Judge:

On June 29, 2012, the Government charged Deszmon Moore with a two-count indictment. Dkt. No. 9. Count One charged him with conspiracy to commit Hobbs Act robbery, in violation of 18 U.S.C. § 1951. Count Two charged him with possession of a firearm in relation to a robbery conspiracy, in violation of 18 U.S.C. § 924(c). On January 30, 2013, Moore pleaded guilty to both counts. On July 1, 2013, the Court sentenced Moore to 93 months' imprisonment and three years of supervised release on each count, to run concurrently.

On May 10, 2016, Moore filed a petition to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. Dkt. No. 79. That petition was stayed pending the Supreme Court's resolution of *United States v. Davis*, 139 S. Ct. 2319 (2019). Moore's conviction on Count Two can no longer stand after *Davis*, because conspiracy to commit a Hobbs Act robbery qualifies as a "crime of violence" only under the now-stricken residual clause of 18 U.S.C. § 924(c)(3).

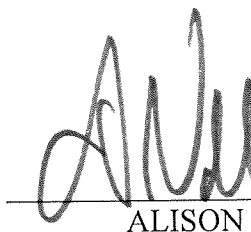
*Davis*, 139 S. Ct. at 2336.

As noted at the November 6, 2019 resentencing in this matter, Moore's petition for a writ of habeas corpus is therefore GRANTED and his conviction on Count Two is VACATED. The special assessment imposed on Count Two under 18 U.S.C. § 3013 is also VACATED. The

Court resentenced Moore on Count 1 to time served and twelve months of supervised release,  
beginning from the date of the resentencing, November 6, 2019.

SO ORDERED.

Dated: November 1, 2019  
New York, New York



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ALISON J. NATHAN  
United States District Judge